

U.S. Department of Justice  
United States Marshals Service**PROCESS RECEIPT AND RETURN**

See instructions for "Service of Process by U.S. Marshal"

## PLAINTIFF

United States of America

## COURT CASE NUMBER

C.A. No. 03-266E

Mis. No. 04-3E

## DEFENDANT

JAMES P. GERG and ROXANNE R. GERG

## TYPE OF PROCESS

Writ of Execution/Notice of Sale

## SERVE AT

NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN  
JAMES P. GERGADDRESS (Street or RFD, Apartment No., City State and ZIP Code)  
172 HEMLOCK LANE, KERSEY, PA 15846

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW

Number of process to be  
Served with this Form 285Number of parties to be  
served in this caseCheck for service  
on U.S.A.Gary W. Darr, Esquire  
McGrath & Associates, PC  
1500 Union Bank Building  
306 Fourth Avenue  
Pittsburgh, PA 15222SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (*Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service*):

Serve the above individual by certified mail, return receipt requested. If no service can be obtained by mail, please have Marshal serve the Defendant. Must serve before July 21, 2005, which is 30 days before the date of the sale. When filing your return on this 285 form, please attach extra set of copies of mailed documents which we provided herewith.

Signature of Attorney or other Originator requesting service on behalf of

Plaintiff  
Defendant

TELEPHONE NUMBER

DATE

(412) 281-4333

May 27, 2005

**SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE**I acknowledge receipt for the total  
number of process indicated.  
(Sign only for USM 285 if more  
than one USM 285 is submitted)

Total Process

District of Origin

District to Serve

Signature of Authorized USMS Deputy or Clerk

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☒ I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (See remarks below)

Name and title of individual served (if not shown above)

A person of suitable age and discretion  
then residing in defendant's usual place  
of abode

Address (complete only if different than shown above)

Date

Time  
am  
pm

Signature of U.S. Marshal or Deputy

Service  
FeeTotal Mileage Charges  
Including endeavors

Forwarding Fee

Total Charges

Advance Deposits

Amount owed to U.S. Marshal\* or  
(Amount of Refund\*)

REMARKS: DERIE 6-2-05

PRIOR EDITIONS  
MAY BE USED

PRINT 5 COPIES:

- 1.
- 2.
- 3.
- 4.
- 5.

CLERK OF COURT

USMS RECORD

NOTICE OF SERVICE

BILLING STATEMENT\*: To be returned to the U.S. Marshal with payment,  
if any amount is owed. Please remit promptly payable to U.S. Marshal.

ACKNOWLEDGEMENT OF RECEIPT

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Mis. No. 04-3E
	)	
v.	)	(See Civil No. 03-266-E)
	)	
JAMES P. GERG, and	)	
ROXANNE R. GERG,	)	
	)	
Defendants.	)	

**WRIT OF EXECUTION**

United States of America	)	
Western District of Pennsylvania	)	ss:

To the United States Marshal Western District of Pennsylvania:

To satisfy the judgment in mortgage foreclosure, including continuing interest and costs, in the above matter you are directed to levy upon and sell the following described property:

ALL that certain piece, parcel or tract of land situate, lying and being in the Township of Fox, Elk County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the west margin of Hemlock Lane, which said place of beginning is one hundred (100) feet south of the southeast corner of a lot of land conveyed to Joseph Kreckle, by the Grantors herein by deed dated July 9, 1968, and recorded in the Recorder's Office of Elk County, Pennsylvania, in Deed Book 178, page 223; as measured along the west margin of Hemlock Lane; thence south along the west margin of Hemlock Lane, one hundred (100) feet to the point where the first margin of Hemlock Lane intersects the north margin of David Street; thence in a westerly direction along the north margin of David Street, two hundred (200) feet to a point; thence north one hundred (100) feet to a point; thence in an easterly direction along a line parallel with the southern boundary of a lot conveyed to Joseph Kreckle, two hundred (200) feet, more or less, to the place of beginning.

SUBJECT TO the following conditions, covenants, and restrictions, which condition, covenant and restriction shall by both the Grantors, their heirs and assigns, and the Grantees, their heirs and assigned, be deemed to be a covenant that runs with the land.

SAID premises shall at no time be used for standing or parking of auto trailers, whether or not the wheels thereof have been removed, or whether or not they are considered residential dwellings or commercial or industrial property.

BEING the same property conveyed to James P. Gerg and Roxanne R. Gerg by Deed dated January 22, 1990 and recorded in the Office of the Recorder of Deeds of Elk County on January 22, 1990 in Deed Book Volume 265, Page 804.

**\$56,200.00 Note**

Principal .....	\$53,400.20
Interest at the daily rate of \$1.19	
from March 16, 2005 .....	\$10,036.23
Interest Credit Subject to Recapture .....	\$ 6,600.00
Appraisal .....	\$ 315.00
Escrow Advances .....	\$ 2,683.45
<b>Total .....</b>	<b>\$73,034.88</b>

**\$1,000.00 Note**

Principal .....	\$ 894.52
Interest at the daily rate of \$1.19	
from March 16, 2005 .....	\$ (34.67)
Interest Credit Subject to Recapture .....	\$ 135.00
<b>Total .....</b>	<b>\$ 994.85</b>

**GRAND TOTAL**

**\$ 74,029.73**

plus interest from March 16, 2005 at the legal rate of 1.19% per annum and future costs to be added.

R. J. Gauthier, Jr.  
CLERK OF COURT

Seal of the Court

Date MAY 06 2005, 2005

Susan J. Shaffer  
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
	)	Mis. No. 04-3E
Plaintiff,	)	
vs.	)	(See C.A. No. 03-266E)
	)	
JAMES P. GERG, and	)	
ROXANNE R. GERG,	)	
	)	
Defendants.	)	

NOTICE OF MARSHAL'S SALE OF REAL ESTATE

TO: James P. Gerg	Roxanne R. Gerg
172 Hemlock Lane	172 Hemlock Lane
Kersey, PA 15846	Kersey, PA 15846

This is to notify you that the real estate owned by James P. Gerg and Roxanne R. Gerg known as 172 Hemlock Lane, Kersey, PA 15846, and more fully described below, will be sold at United States Marshal's Sale on August 22, 2005 at 11:00 A.M. The sale will take place in the Conference Room located in the Basement of the Elk County Courthouse, Main Street, Ridgway, PA 15853. The property is:

ALL that certain piece, parcel or tract of land situate, lying and being in the Township of Fox, Elk County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the west margin of Hemlock Lane, which said place of beginning is one hundred (100). feet south of the southeast corner of a lot of land conveyed to Joseph Kreckle, by the Grantors herein by deed dated July 9, 1968, and recorded in the Recorder's Office of Elk County, Pennsylvania, in Deed Book 178, page 223; as measured along the west margin of Hemlock Lane; thence South along the west margin of Hemlock Lane, One Hundred (100) feet to the point where the first margin of Hemlock Lane intersects the north margin of David Street; thence in a westerly direction along the north margin of David Street, Two Hundred (200) feet to a point; thence North One Hundred (100) feet to a point; thence in an easterly direction along a line parallel with the southern boundary of a lot conveyed to Joseph Kreckle, Two Hundred (200) feet, more or less, to the place of beginning.

SUBJECT TO the following conditions, covenants, and restrictions, which condition, covenant and restriction shall by both the Grantors, their heirs and assigns, and the Grantees, their heirs and assigns, be deemed to be a covenant that runs with the land.

Said premise shall at no time be used for standing or parking of auto trailers, whether or not the wheels thereof have been removed, or whether or not they are considered residential dwellings or commercial or industrial property.

BEING the same premises conveyed to James P. Gerg and Roxanne R. Gerg, by Deed of Ritchie L. Gleixner and Deborah A. Gleixner Moran, dated January 22, 1990, and recorded on January 22, 1990 in Elk County Deed Book Volume 265, page 804.

The sale is held pursuant to a judgment entered against you at Civil Action No. 03-266E in the United States District Court for the Western District of Pennsylvania, captioned United States of America v. James P. Gerg and Roxanne R. Gerg and a Writ of Execution issued on the judgment at Mis. No. 04-3E in the amount of \$74,029.73, plus interest from the date of judgment at 1.19% per annum and future costs to be added.

All parties interested and claimants are hereby given notice that a schedule of distribution will be filed by the United States Marshal for the Western District of Pennsylvania not later than 30 (thirty) days after sale and distribution will be made in accordance with the schedule unless exceptions are filed thereto within ten (10) days thereafter.

Claims against the property must be filed at the Office of the United States Marshal before above sale date. **(Please forward a copy of any claim filed with the United States Marshal to Gary W. Darr, Esquire, Counsel for the United States of America at: McGrath & Associates, P.C., 1500 Union Bank Building, 306 4th Avenue, Pittsburgh, PA 15222.)**

Claims to proceeds must be made with the Office of the United States Marshal before distribution.

Attached hereto is a copy of the Writ of Execution. It has been issued because there is a judgment against you. It may cause your property to be held or taken to pay the judgment. You may have legal rights to prevent your property from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

**YOU SHOULD TAKE THIS NOTICE AND THE WRIT OF EXECUTION TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL ADVICE.**

**Elk County Courthouse  
P.O. box 237  
Ridgeway, PA 15853  
(814) 776-5344**

You may have legal rights to prevent the Marshal's Sale and the loss of your property. In order to exercise those rights, prompt action on your part is necessary. A lawyer may be able to help you.

You may have the right to prevent or delay the Marshal's Sale by filing, before the sale occurs, a petition to open or strike the judgment or a petition to stay the execution.

If the judgment was entered because you did not file with the Court any defense or objection you might have had within twenty (60) days after a Notice of Lawsuit and Request for Waiver of Service of Summons was sent to you or within twenty (20) days after personal service of the Complaint, you may have a right to have the judgment opened if you promptly file a motion with the Court alleging a valid defense and a reasonable excuse for failing to file the defense on time. If the judgment is opened, the Sale would ordinarily be delayed pending a trial of the issue of whether the plaintiff has a valid claim entitling it to foreclose upon or sell the real property.

You may also have the right to have the judgment stricken if there has not been valid service of the Complaint or if the judgment was entered before sixty (60) days after service of Notice of Lawsuit and Request for Waiver of Service of Summons was sent to you or within twenty (20) days after personal service of the Complaint or in certain other events. To exercise this right, you would have to file a motion to strike the judgment.

If judgment was entered against you by confession, you may not have certain of the rights set forth above, but you still may have the right to move to have the confessed judgment opened or stricken on proper grounds.

You may also have the right to petition the Court to stay or delay the execution and the Marshal's Sale if you can show a defect in the Writ of Execution of service or demonstrate any other legal or equitable right.

You may also have the right to have the Marshal's Sale set aside if the property is sold for a grossly inadequate price or if there are defects in the Marshal's Sale. To exercise this right, you should file a petition with the Court after the sale and before the

Marshal has delivered his deed to the property. The Marshal will deliver the deed if no petition to set aside sale is filed within ten (10) days from the date when the Schedule of Distribution is filed in the office of the Marshal.

McGRATH & ASSOCIATES, P.C.

By: 

Gary W. Darr, Esquire  
McGrath & Associates, P.C.  
1500 Union Bank Building  
306 4th Avenue  
Pittsburgh, PA 15222-2102  
Counsel for Plaintiff  
United States of America  
PA I.D. No. 90857  
(412) 281-4333

MARSHAL'S SALE: By virtue of a Writ of Execution issued out of the U. S. Court for the W. D. of PA at suit of the USA at Mis. No. 04-3E, I shall expose to public sale the real property of James P. Gerg and Roxanne R. Gerg known as 172 Hemlock Lane, Kersey, PA 15846, as described in the Deed recorded in the Office of the Elk County Recorder of Deeds on January 22, 1990 at Book Volume 265, page 804.

TIME AND LOCATION OF SALE: Monday, August 22, 2005 at 11:00 A.M. in the Conference Room located in the Basement of the Elk County Courthouse, Main Street, Ridgway, PA 15853.

TERMS OF SALE: Successful bidder will pay ten percent (10%) by certified check and the remainder of the bid within thirty (30) days from the date of the sale and in the event bidder cannot pay the remainder, the property will be resold and all monies paid in at the original sale will be applied to any deficiency in the price at which the property is resold. Notice is hereby given that a Schedule of Distribution will be filed by me on the thirtieth day after the date of sale, and that distribution will be made in accordance with the Schedule unless exemptions are filed thereto within ten (10) days thereafter. Purchaser must furnish State Realty Transfer Tax Stamps, and stamps required by the local taxing authority. Marshal's costs, fees and commissions are to be borne by seller. Thomas Fitzgerald, United States Marshal. For information call Mr. Kristen Good at 724-482-4800.

AT THE TIME OF THE SALE, THE SUCCESSFUL PURCHASER OF THE PROPERTY MUST PROVIDE THE MARSHAL WITH THE EXACT NAME OF THE GRANTEE WHICH IS TO APPEAR ON THE MARSHAL'S DEED, NO SUBSEQUENT REVISIONS TO THE GRANTEE'S NAME WILL BE PERMITTED.



U.S. Department of Justice  
United States Marshals Service

# PROCESS RECEIPT AND RETURN

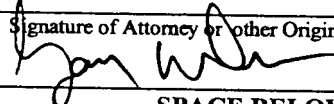
See instructions for "Service of Process by U.S. Marshal"

PLAINTIFF United States of America		COURT CASE NUMBER C.A. No. 03-266E Mis. No. 04-3E
DEFENDANT JAMES P. GERG and ROXANNE R. GERG		TYPE OF PROCESS Writ of Execution/Notice of Sale
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN JAMES P. GERG	
ADDRESS (Street or RFD, Apartment No., City State and ZIP Code) 172 HEMLOCK LANE, KERSEY, PA 15846		

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW	Number of process to be Served with this Form 285	
Gary W. Darr, Esquire McGrath & Associates, PC 1500 Union Bank Building 306 Fourth Avenue Pittsburgh, PA 15222	Number of parties to be served in this case	
	Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (*Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service*):

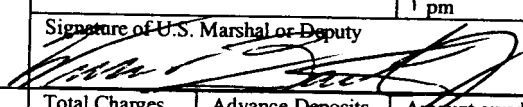
Serve the above individual by certified mail, return receipt requested. If no service can be obtained by mail, please have Marshal serve the Defendant. Must serve before July 21, 2005, which is 30 days before the date of the sale. When filing your return on this 285 form, please attach extra set of copies of mailed documents which we provided herewith.

Signature of Attorney or other Originator requesting service on behalf of 	Plaintiff Defendant	TELEPHONE NUMBER (412) 281-4333	DATE May 27, 2005
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## SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only for USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk
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I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

<input checked="" type="checkbox"/> I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (See remarks below)		Name and title of individual served (if not shown above)		A person of suitable age and discretion then residing in defendant's usual place of abode	
Address (complete only if different than shown above)		Date		Time i am i pm	
		Signature of U.S. Marshal or Deputy 			
Service Fee	Total Mileage Charges Including endeavors	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*)

REMARKS: *TO ERIE 6-2-05*

PRIOR EDITIONS  
MAY BE USED

PRINT 5 COPIES:

- 1.
- 2.
- 3.
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- 5.

CLERK OF COURT  
USMS RECORD

NOTICE OF SERVICE

BILLING STATEMENT\*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.

ACKNOWLEDGEMENT OF RECEIPT